

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

MITCHELL CARTER and
SARAH CARTER

v.

PAUL E. NICKLE and
QUALITY CARRIERS, INC. a/k/a
QUALITY DISTRIBUTION SERVICES,
INC. a/k/a QUALITY DISTRIBUTION,
LLC, OCL CORPORATION

C.A. No.

JURY OF TWELVE DEMANDED

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF DELAWARE:

Defendant, Quality Carriers, Inc. by and through its attorneys, Rawle and Henderson,
LLP, respectfully aver as follows:

1. Plaintiffs have commenced a civil action against defendants in the Superior Court of Delaware in and for New Castle County. (*See Complaint attached as Exhibit "A."*) The Complaint, being the original process in this case, was filed on July 16, 2010 and a courtesy copy was served upon the Zurich on or about July 30, 2010. (*See copy of transmittal letter attached as Exhibit "B."*)

2. Accordingly, this Notice of Removal was timely filed within thirty (30) days of receipt of the information indicating that the jurisdictional amount may be satisfied pursuant to 28 U.S.C. §1446 (b).

3. In the Complaint, Plaintiffs alleged that the following injuries and damages were severe personal injuries, both temporary and permanent in nature, but not limited to, his neck, and back. *See Exhibit A at ¶10.*

4. In addition, plaintiffs claimed past and future substantial physical pain and suffering as well as emotional pain, suffering and nervousness. *See Exhibit A at ¶¶ 11 and 12.*

5. Plaintiffs also claim to have incurred and will incur medical bills for treatment of their injuries and damages as well as a loss of earnings and an impairment of earning capacity. *See Exhibit at ¶¶ 13 and 14.*

6. Based upon a fair reading of the Complaint, plaintiffs have set forth a claim in which an amount in excess of the jurisdictional limit of \$75,000, exclusive of interest and costs, may be at stake.

7. Defendant, Quality Carriers, Inc. is and was a corporation duly organized and existing under the laws of the State of Illinois with a principal place of business in Tampa, Florida.

8. Defendant, Paul Nickle at all material times hereto is a resident and citizen of the State of Maryland.

9. All other named defendants have been dismissed. *See Exhibit C.*

10. At all material times hereto, based upon information and belief, plaintiffs are and were residents and citizens of Delaware. *See Exhibit A.*

11. Diversity of citizenship within the meaning of 28 U.S.C. §1332, exists between plaintiffs and defendants since:

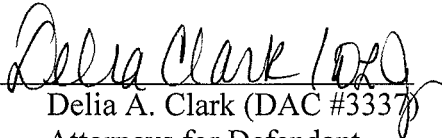
- (a) plaintiffs are citizens and residents of the State of Delaware; and
- (b) defendants are not a citizens or residents of the State of Delaware.

12. Furthermore, diversity of citizenship existed at the time the action sought to be removed was commenced and continues through the time of filing of this notice, such that defendants are entitled to removal pursuant to 28 U.S.C. §1441 as amended, and 28 U.S.C. §1446.

13. As of the date of this removal, service on defendant, Paul Nickle, has yet to been effectuated. However, the undersigned counsel also represents Defendant, Paul Nickle and he has consents to the removal of this action.

WHEREFORE, defendant, Quality Carriers, Inc. respectfully requests that the above-captioned action now pending in the Superior Court of Delaware in and for New Castle County, be removed there from to this Honorable Court.

RAWLE & HENDERSON LLP

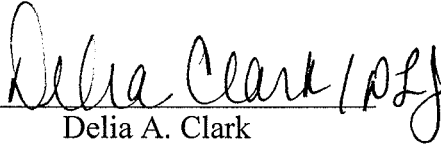
By: 
Delia A. Clark (DAC #3337)
Attorneys for Defendant
300 Delaware Avenue, Ste. 1015
Wilmington, DE 19801
(302) 778-1200

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the within-captioned Notice of Removal Pursuant to 28 U.S.C. §1446(d) was served via first-class mail, postage prepaid, on counsel for plaintiff listed below:

Paul Wernle
New Castle Corporate Commons
92 Reads Way, Suite 106
New Castle, DE 19720

RAWLE & HENDERSON LLP



Delia A. Clark

Dated: